

§ 230.22

§ 230.22 May another employee be substituted for the employee requested to appear?

The Inspector General or designee may, where appropriate, designate another Office of Inspector General employee to respond to a request for an appearance.

§ 230.23 May an Office of Inspector General employee testify as an expert or opinion witness?

No, an Office of Inspector General employee may not testify as an expert or opinion witness with regard to any matter arising out of the employee's duties or functions at the Office of Inspector General for any party other than the United States, except that in extraordinary circumstances, and where the anticipated testimony will not be adverse to the interest of the United States, the authorizing official may approve such testimony in private litigation. A litigant must first obtain the permission of an authorizing official designated by the Inspector General before designating an Office of Inspector General employee as an expert or opinion witness.

§ 230.24 How is a demand for employee documents or testimony made to the Office of Inspector General?

(a) All demands for the production of nonpublic documents or testimony of Office of Inspector General employees concerning matters relating to their official duties and subject to the conditions set forth in § 230.10(b) shall be made in writing and conform to the requirements outlined in paragraph (b) of this section.

(b) Before or simultaneously with service of a demand, the requesting party shall serve on the General Counsel to the Inspector General at the Office of Inspector General, 1735 North Lynn Street, Arlington, VA 22209-2020, a summons or subpoena issued in accordance with the appropriate rules of civil procedure along with an affidavit or sworn declaration containing the following information:

- (1) The title of the case and the forum where it will be heard;
- (2) The party's interest in the case;
- (3) The reasons for the demand;

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(4) A showing that the requested information is available, by law, to a party outside the Postal Service;

(5) If testimony is sought, a detailed summary of the anticipated testimony;

(6) If testimony is sought, a showing that Office of Inspector General records could not be provided and used in place of the requested testimony;

(7) The intended use of the documents or testimony; and

(8) An affirmative statement that the documents or testimony is necessary for defending or prosecuting the case at issue.

[68 FR 57372, Oct. 3, 2003, as amended at 71 FR 11161, Mar. 6, 2006]

§ 230.25 Who pays the costs incurred when the Office of Inspector General responds to a demand for documents or testimony?

(a) Unless determined by 28 U.S.C. 1821 or other applicable statute, the costs of providing testimony, including the cost of transcripts, shall be borne by the requesting party. Furthermore, unless limited by statute, such costs shall also include reimbursement to the Office of Inspector General for the usual and ordinary expenses attendant upon the employee's absence from his or her official duties in connection with the case or matter, including the employee's salary and applicable overhead charges, and any necessary travel expenses as follows:

(1) The Office of Inspector General is authorized to charge reasonable fees to parties demanding documents or information. Such fees, calculated to reimburse the Office of Inspector General for the cost of responding to a demand, may include the costs of time expended by Office of Inspector General employees, including attorneys, to process and respond to the demand; attorney time for reviewing the demand and for legal work in connection with the demand; expenses generated by equipment used to search for, produce, and copy the requested information; and travel costs of the employee and the agency attorney or other representative, including lodging and per diem. Such fees shall be assessed at the rates and in the manner specified in 39 CFR 265.9.

(2) At the discretion of the Office of Inspector General where appropriate,